

The Proceeding for
for these mentioned
not received

NUMBERED PAGES

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

8,243
8,450 1/2 + 8,450
8,509
8,510

Rec'd
Nov 2 (2)

inserted

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

Recd ltr
Apr. 15
2 (c) - inserted
8,639
8,973
8,974
8,975

NOTE:

The attached pages were omitted in the
record of Proceedings for 31 OCTOBER, 1946 and
should be inserted.

Rec'd
15
2 (f)
9,158 a
" b
" c
" d
" e
} inserted

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

Rec'd
the Nov 15
2(g)

mailed

9,003
9,109

Index of exhibits 31 Oct

Before:

- 1 HON. SIR WILLIAM F. WEBB, President
2 of the Tribunal and Member from
3 the Commonwealth of Australia;
4 HON. E. STUART MC DOUGALL, Justice,
5 Member from the Dominion of Canada;
6 HON. JU-AO MEI, Member from the
7 Republic of China;
8 HON. HENRI BERNARD, Member from the
9 Republic of France;
10 HON. BERNARD VICTOR A. BOLING,
11 Member from the Kingdom of the
12 Netherlands;
13 HON. ERIMA HARVEY NORTHCROFT, Justice,
14 Member from New Zealand;
15 HON. I. M. ZARYANOV, Justice,
16 Member from the Union of Soviet
17 Socialist Republics;
18 HON. LORD PATRICK, Member from the
19 United Kingdom of Great Britain
and Northern Ireland; and
HON. JOHN P. HIGGINS, Justice, Member
from the United States of America.

*Recd listed in
ltr 25 Oct. 46
para 2 a.*

NOTE:

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pages and should be substituted for the
corresponding pages in the record.

3 MAY 1946

not read

1 Before:

2 HON. SIR WILLIAM F. WEBB, President
3 of the Tribunal and Member from
4 the Commonwealth of Australia;

5 HON. E. STUART MC DOUGALL, Justice,
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18 Socialist Republics;

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20 United Kingdom of Great Britain
21 and Northern Ireland;

22 HON. JOHN P. HIGGINS, Justice, Member
from the United States of America; and

HON. R.B. PAL, Justice, Member from the
Government of India.

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Appearances:

For the Prosecution Section:

MR. FRANK S. TAVENNER, JR.
MR. G. OSMOND HYDE
MR. WORTH E. MCKINNEY
MR. SOLIS HORVITZ

For the Defense Section:

MR. WILLIAM LOGAN, JR., Counsel for
the Accused KIDO, Koichi.
MR. MICHAEL LEVIN, Counsel for the
Accused SUZUKI, Teiichi

For the Office of the General Secretary, INTE:

MR. G. WALTER BOWMAN,
Clerk of the Court.
MR. C. A. MANTZ,
Deputy Clerk of the Court.

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

*Rec'd listed in
ltr 18 Oct 46
para 2 (15)*

NOTE:

The attached pages are corrected
pages and should be substituted for the
corresponding pages in the record.

*We have not
received the books
in which to put
these corrected
pages.*

CHING

CROSS

1 DEPUTY MARSHAL OF THE COURT: The witness will
2 sign this oath: "I swear that the testimony I have given
3 is a true statement."

4 (Whereupon, a document was signed by
5 the witness.)

6 THE PRESIDENT: The Representative of China
7 advises me that that is the Chinese form.

8 (Whereupon, the witness was excused.)

9 COLONEL MORROW: If the Court please, pursuant
10 to a permission of this Court to take certain witnesses
11 out of turn from the Republic of China, I desire to
12 present for the purpose, Mr. David Nelson Sutton of
13 West Point, Virginia, a member of the bar of the Su-
14 preme Court of Appeals of Virginia and of the bar of
15 the Supreme Court of the United States, a member of the
16 prosecution staff, who will present certain witnesses
17 from China out of order, with the permission of this
18 Court.

19 THE PRESIDENT: For the information of other
20 Members of the Tribunal you might explain what you mean
21 by out of order.

22 MR. SUTTON: May it please the Tribunal, the
23 witnesses are presented without at this time presenting
24 certain documents which would normally have been pre-
25 sented. The witnesses are presented one after the other.
The evidence will be connected up later.

1 or a member of an Ambassadorial suite, and his acts
2 were privileged under the diplomatic immunity rule
3 of international law; and it is an inviolable rule
4 of the law of nations.

5 Two: That any process issued against the
6 defendant by any nation or group of nations complain-
7 ing of acts performed by the defendant in his official
8 capacity as Ambassador or member of the suite is null
9 and void according to the law of nations.

10 Three: That under the extra-territoriality
11 rule, the personal representative theory, the natur-
12 alist law doctrine, or the established rule of im-
13 punity, the defendant is exempt from punishment or
14 criminal responsibility for his acts by virtue of
15 this established principle of diplomatic immunity.

16 Four: Immunity is a vested right which
17 attaches at the time of appointment and survives the
18 assignment.

19 Five: The Ambassador represents the person
20 of the sovereign, and any insult, or violence, or
21 arrest, or deterrence of the right of embassy which
22 belongs to all sovereigns is regarded then as a hos-
23 tile act against that sovereign and is punishable in
24 itself as a violation of international law.

25 THE MONITOR: Will the reporter please read

NOTE:

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pages and should be substituted for the
corresponding pages in the record.

4,080
1,361
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not ruled

Rec'd list in
ltr 18 Oct '46
para 2(8)

21 Aug 46
- 5-61

1 Wednesday, 21 August, 1946

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3
4 INTERNATIONAL MILITARY TRIBUNAL
5 FOR THE FAR EAST
6 Court House of the Tribunal
7 War Ministry Building
8 Tokyo, Japan

9 The Tribunal met, pursuant to adjournment,
10 at 0930.

11 - - -

12 Appearances:

13 For the Tribunal, same as before, with the
14 exception of the HONORABLE MYRON C. CRAMER, Member from
15 the United States of America, now sitting.

16 For the Prosecution Section, same as before.

17 For the Defense Section, same as before.

18 - - -

19 (English to Japanese, Japanese to
20 English, English to Chinese, and Chinese to
21 English interpretation was made by the
22 Language Section, IMTFE.)
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24
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SHIDEHARA

CROSS

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1 DR. UZAWA: Mr. President, I am Counsel
2 UZAWA. For the sake of reference I wish to say a
3 few words. As you know, in the Indictment there are
4 no concrete facts regarding the defendant, SHIRATORI.

5 MR. HELM: If your Honor please, this is
6 the second counsel we have heard representing
7 SHIGEMITSU.

8 THE PRESIDENT: Let us hear what he has
9 said already. He could go on forever.

10 DR. UZAWA: As a Japanese lawyer, in my
11 forty-eight years of experience as a lawyer, I have
12 never seen such an indictment. However, according to
13 Anglo-American law, which is based on the principle
14 of freedom, I believe that, for instance in this
15 case, the defendant, SHIRATORI -- it has been es-
16 tablished that the defendant, SHIRATORI, was working
17 under the witness, SHIDEHARA. If the facts are
18 established it will help to expedite the trial; and,
19 therefore, I beg leave that in these special cases
20 the Tribunal will not be bound by technical rules
21 of evidence. I believe that will help to expedite
22 the case.

23 THE PRESIDENT: We will take what you have
24 said into consideration.

25 MR. FURNESS: I will cross-examine as counsel

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25 MAY 1946

Recd
the 9th 15
2 (h)

25 May
not recd

37

the elements of the offense as well as the offense itself?

CAPTAIN KLEIMAN: Sir, may I make myself clear?

THE PRESIDENT: Are you insisting that we hear your application first?

CAPTAIN KLEIMAN: In the motion for the bill of particulars, as I pointed out before, your Honor, I am requesting the date, the place of the crime, the manner in which the defendant is connected with the crime alleged, and the specific rule of law that has been violated that makes his act a crime. By those, I mean the essential elements of the crime. Perhaps, if I read one section of Stephen on "Criminal Law in England" ---

THE PRESIDENT: Yes, do. By the way, our Queensland Code is based on his report; I am glad you mentioned it. I have some familiarity with it.

CAPTAIN KLEIMAN: Stephen states that "an indictment must consist of a venue, the statement, and a conclusion. Venue must be alleged to show that the Court has placed jurisdiction over the offense, and over the persons accused."

MR. JUSTICE MANSFIELD: That is where the jurisdiction is territorial.

MR. COMYNS CARR: Why is it not stated in the Indictment?

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page 6, 706
" 6, 895
inserted
Rechecked in
ltr 18 Oct 46
para 2 (20)

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corresponding pages in the record.

Revised by 6
the Hon 2(e)

8,108 to 8,116

NOTE:

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corresponding pages in the record.

*Rec'd
the Hon
para 2 (f)*

*8,005-48,540
inserted*

1 The remainder of the document are the de-
2 tails of the organization.

3 We next offer IPS document No. 607 which is
4 "A Message Addressed to the War Minister from the
5 Commander-in-Chief of the Kwantung Army," and the
6 answer to that, too.

7 THE PRESIDENT: Admitted on the usual terms.

8 CLERK OF THE COURT: Prosecution's document
9 No. 607 will receive exhibit No. 226.

10 (Whereupon, prosecution's exhibit
11 No. 226 was received in evidence.)

12 MR. DARSEY: I desire to read the document.
13 "A Message Addressed to the War Minister from the
14 Commander-in-Chief of the Kwantung Army," dated
15 April 3, 1932.
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Corrected pages 5,387 inserted
5,388
Rec'd listed in
ltr Oct 18, 1946
para 2(22)

1 "Regarding the recent dispatch of a part of
2 the Chosen Army to Chientao, I understand the main
3 objective lies in the protection of Japanese residents
4 there. Accordingly, I believe it favorable for the
5 unification of our Manchurian policy that the general
6 administrative functions in Chientao be conducted
7 by the Manchukuo Government under the guidance of the
8 Kwantung Army, since Chientao at present has already
9 become a territory of Manchukuo. But, in view of the
10 historical relations between the Government-General
11 of Chosen and the said district as well as of the
12 peculiarities of the said district, the Kwantung
13 Army is ready to pay full respect to their opinions
14 and afford conveniences to them.

15
16 "I believe you have no objections that the
17 execution of our policies regarding the whole of
18 Manchukuo, under these circumstances, should, inso-
19 far as it involves negotiations with Manchukuo, be
20 left chiefly to the Kwantung Army for unified and
21 joint execution according to the measures decided
22 upon in the recent Cabinet Council. In view of the
23 recent conduct of Japanese Government offices and
24 various other representing organs in Manchukuo, how-
25 ever, I fear that unless we make it thoroughgoing,

1 confusion might arise. I seek your opinion about
2 this matter.

3 "A cipher telegram addressed to the Commander-
4 in-Chief of the Kwantung Army from the War Minister
5 in reply to the previous message.

6 "In reply to your telegrams 'Kan-San' No. 323
7 & 334, I agree in principle to your opinion regarding
8 unification in the execution of our Manchurian poli-
9 cies as well as to the policy of the Army under your
10 command regarding the Chientao question. Consider-
11 ing the actual state of affairs in that area as well
12 as its historical relations, however, I hope you
13 will keep in contact and cooperate with the various
14 organs concerned. Regarding matters relating to the
15 Supreme Comman, instructions will be issued by the
16 Chief of the Army General Staff."
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PU-YI

CROSS

1 papers. I ask you whether the newspapers of China
2 did not report almost daily instances of these
3 things I have mentioned.

4 A So many years have already elapsed, I
5 could not recollect all these events. While there
6 were events like this of political crisis -- but
7 there were some; I couldn't tell you right away
8 now.

9 Q Have you read the Lytton Commission Report?

10 A I don't remember I have read it.

11 Q Will you say that you have not read it?

12 A I cannot recall.

13 Q Manchuria was the land of your fathers?

14 A That is right.

15 Q Your ancestors came from Manchuria to
16 China three hundred years ago to establish the
17 Manchu Dynasty.

18 THE PRESIDENT: That really is a question.

19 Q (Continuing) Did they not?

20 THE PRESIDENT: You would save a lot of
21 trouble if you just simply say "Didn't your ancest-
22 ors come three hundred years ago?" It gives great
23 trouble to the interpreters.

24 A Yes, they went in at the invitation of the
25 Ming Dynasty, particularly Wu-Sankueh.

PU-YI

CROSS

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PU-YI

CROSS

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AFTERNOON SESSION

The Tribunal met, pursuant to recess, at 1340.

MARSHAL OF THE COURT: The International
Military Tribunal for the Far East is now resumed.

THE PRESIDENT: Major Blakeney.

MAJOR BLAKENEY: I should like to state, sir,
in further regard to the question of letters and
books that came up this morning the position in
which I am. Inasmuch as, by the practice with which
we are familiar, the introduction of these documents
during the cross-examination is optional rather than
compulsory, we have not made the necessary prepara-
tion by way of translation, reproduction and service
of the documents. Although I am now in possession
of some of the documents referred to this morning,
I, of course, have not translations prepared and
checked by the Language Section and served. I have
the translation. I did request the the Language Section
in the few minutes available after I received the
documents to verify translation, but time did not
suffice for that purpose. I, therefore, ask the
direction of the Court about tendering and reading
my translation of the documents.

MR. KEENAN: Mr. President, the prosecution

PU-YI

CROSS

1 H E N R Y P U - Y I, called as a witness on behalf
2 of the prosecution, resumed the stand and
3 testified as follows:

4 BY MAJOR BLAKENEY (Continued):

5 (A document was handed to the witness).

6 Q I ask you to look at the document which has
7 been placed before you and state whether that is a
8 letter written by you or under your direction, bear-
9 ing your seal as the Emperor Hsuan Tung.

10 (Whereupon, the witness arose and
11 started to address the Court.)

12 THE WITNESS: Please, sir --

13 THE PRESIDENT: Keep your seat.

14 THE WITNESS: Your Honor, this was a fake
15 one. Not only that --

16 THE PRESIDENT: Just answer this question:
17 did you write that letter?

18 THE WITNESS: It was not written by me.

19 THE PRESIDENT: What is the answer? I
20 didn't get it. I was talking to my colleague.

21 THE MONITOR: It was not written by me.

22 THE WITNESS: They should be guilty of
23 counterfeiting this document.

24 BY MAJOR BLAKENEY:

25 Q Mr. Witness, you read the letter before

PU-YI

CROSS

1 THE PRESIDENT: I take this to be an attempt
2 by you to prove a past statement of the witness
3 inconsistent with his present testimony.

4 MAJOR BLAKENEY: Yes, sir. I propose to
5 show by the remainder of the quotation that the
6 witness has stated that no one had a more intimate
7 knowledge than Johnston of the events herein related.
8 I then propose to confront the witness with some of
9 Johnston's relations of the events to which he has
10 testified in chief.

11 THE PRESIDENT: You are at liberty to tell
12 him who made the statement, where it was made, and
13 when.

14 MAJOR BLAKENEY: Yes, sir. I have already
15 stated to him that I am reading what purports to be
16 his preface to this book. I will be glad to furnish
17 the date, too.

18 THE PRESIDENT: As it is in English, it is
19 useless, I take it, to hand him the book.

20 MAJOR BLAKENEY: It is in both English and
21 Chinese.

22 THE PRESIDENT: Why not show him the Chinese?

23 (Whereupon, the book above referred
24 to was handed to the witness.)
25

5,535

WILD

DIRECT

1 of prisoners of war. Chiefly to take care of billet-
2 ing, maintenance and health of prisoners of war and
3 to request assistance to the units concerned. Execu-
4 tion of the business of supervising prisoners of war."
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WILD

DIRECT

1 BY MR. COMYNS CARR (Continued):

2 Q Pausing there, what can you tell us about
3 that paragraph and about what was done with the
4 Malay police?

5 A According to my information, one of the
6 members of that committee -- sub-committee, obtained
7 from the police station in Singapore a list of the
8 Chinese detectives of the Singapore police force.
9 He handed the list to the chairman of the sub-
10 committee, and the twenty Chinese detectives were
11 shot that night. I am informed by the present head
12 of the Malayan's Currency Service that all twenty
13 were outstandingly good members of the detective
14 force in Singapore.

15 MR. COMYNS CARR: Continuing:

16 "(b) The number of persons searched during
17 the first series lasting for 3 days, Feb. 21-23, about
18 5,000 persons; the second series, Feb. 18-March 3,
19 about 1,500 persons; the third series at the end of
20 March, about 300 persons. Among them, about 2,000
21 persons were released after the investigation.

22 "(c) Reason for the search and the execu-
23 tion. There exists no written order given to the
24 Guard Commander; it is, however, almost clear that
25 the Guard Commander had issued orders to cope with

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corresponding pages in the record.

Rec'd ltr
Nov 15
para 2(h)
Index of Exhibits 23 SEPT
6, 11 5 1/2
6, 1 2 2 1/2
not rec'd